

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

EPIC SYSTEMS CORPORATION,

Plaintiff,

v.

YOURCAREUNIVERSE, INC., MEDHOST,
OF TENNESSEE, INC., AND MEDHOST
DIRECT, INC.

Defendants.

Case No. 3:15-cv-00821-bbc

DECLARATION OF DANIEL HART

Daniel Hart hereby declares as follows:

1. My name is Daniel Hart. I am over the age of twenty-one and a resident of Davidson County, Tennessee. The statements made herein are based upon my personal knowledge and investigation.

2. I am the President of YourCareUniverse, Inc. ("YCU"), a [REDACTED]

[REDACTED]

[REDACTED].

3. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] MEDHOST TN's EHR system is known as the Enterprise EHR. Unlike Epic, MEDHOST TN does not offer an EHR product specific to ambulatory physician practices.

4. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. YCU offers a suite of products and services that are designed to assist healthcare providers in managing the business of healthcare.

6. Each of YCU's products and services are branded under one of the company's YOURCARE- trademarks.

7. YCU uses or has used each of the following YOURCARE- trademarks to designate one or more of its products and services:

- a. YOURCAREANALYTICS
- b. YOURCARELINK
- c. YOURCAREREFERRAL
- d. YOURCARETRANSFER
- e. YOURCAREHEALTH
- f. YOURCAREPROVIDER
- g. YOURCARESUCCESS
- h. YOURCAREDATA
- i. YOURCAREEXCHANGE
- j. YOURCAREINTERACT
- k. YOURCARENAVIGATION
- l. YOURCAREWELLNESS
- m. YOURCARECOMMUNITY

- n. YOURCAREKNOWLEDGE
- o. YOURCAREMESSENGER
- p. YOURCAREVISUALIZE
- q. YOURCAREEVERYWHERE

8. YCU considers the YOURCAREEVERYWHERE product a consumer focused (as opposed to a healthcare provider focused) brand. YCU primarily uses the YOURCAREEVERYWHERE Mark in connection with a free, publicly available website (www.yourcareeverywhere.com) containing general information related to health and wellness topics and an associated smartphone application. Users of the YOURCAREEVERYWHERE website and app can access free articles and information related to health and wellness topics, such as articles related to diseases and conditions, healthcare news, pregnancy and childbirth, children and teen care, heart care, mental health, and exercise and nutrition.

9. Users of the YOURCAREEVERYWHERE website encounter the YOURCAREEVERYWHERE word mark and logo prominently displayed on the website's header and in other locations throughout the site. The YOURCAREEVERYWHERE logo appears as follows:



10. Users of the YOURCAREEVERYWHERE mobile application encounter the YOURCAREEVERYWHERE word mark and logo displayed in the app. The icon displayed on the mobile device for the app appears as follows:



11. In addition to accessing health and wellness content, users of the YOURCAREEVERYWHERE website and app may also register an account. If a user registers an account, he or she may use their YOURCAREEVERYWHERE account to track certain health and wellness data, such as activity data from a Fitbit device.

12. YCU also uses the YOURCAREEVERYWHERE Mark to identify certain services offered by YCU to healthcare providers in association with the publicly available website. Specifically, YCU offers providers the ability to license a co-branded “landing page” (also known as a “Facility Profile Page”) on the YOURCAREEVERYWHERE website. This co-branded landing page contains both the YOURCAREEVERYWHERE Mark and logo (as shown above) and the licensed healthcare provider’s name and identifying information. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13. If a user of the YOURCAREEVERYWHERE website or app has registered a user account, the user may link that account with a healthcare provider who has licensed a co-branded landing page on the YOURCAREEVERYWHERE website. In some cases, once a user links his or her YOURCAREEVERYWHERE account to a licensed healthcare provider, if that user is also a patient with the licensed healthcare provider, the user can access the provider’s YCU patient portal through the YOURCAREEVERYWHERE website or app. The YCU patient portal is designated as YOURCAREHEALTH.

14. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

15. [REDACTED]
[REDACTED]
[REDACTED]

16. [REDACTED]
[REDACTED]

17. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

18. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

a. [REDACTED]
[REDACTED]

b. [REDACTED]
[REDACTED]

c. [REDACTED]

19. Both YCU and MEDHOST license their products directly to healthcare providers.

[REDACTED].

20. None of the products or services offered by YCU under the YOURCAREEVERYWHERE Mark are a component of MEDHOST TN's Enterprise EHR system. In other words, the YOURCAREEVERYWHERE products and services offering functions separate and apart from the MEDHOST TN Enterprise EHR and vice versa. None of the functionality within the MEDHOST TN Enterprise EHR is dependent in any way upon the YOURCAREEVERYWHERE products and services.

21. The YOURCAREEVERYWHERE products and services that are available to healthcare providers may be licensed and used by any healthcare provider without regard to whether a provider is also a customer of MEDHOST TN's Enterprise EHR system.

22. [REDACTED]

[REDACTED]. The YOURCAREEVERYWHERE website and services launched in March 2015.

23. Concurrently with the launch of the YOURCAREEVERYWHERE website, YCU engaged in a marketing campaign designed to maximize awareness of the YOURCAREEVERYWHERE website and provider services.

24. In substantially all, if not all, advertisements for the YOURCAREEVERYWHERE products and services, the YOURCAREEVERYWHERE Mark appears alongside the YOURCAREUNIVERSE mark, the MEDHOST mark, and/or other members of YCU's YOURCARE- family of marks.

25. [REDACTED]

26. [REDACTED]

27. [REDACTED]

28. [REDACTED]

29. YCU's marketing activities for YOURCAREEVERYWHERE include online advertisements, social media, and public relations, among other things.

I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: 12/2/16

Daniel Hart
Daniel Hart